THE CODIFICATION OF THE SCHOOL LAWS



A Report of the

JOINT STATE GOVERNMENT COMMISSION

to the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF PENNSYLVANIA

JANUARY 1949

The Joint State Government Commission was created by Act No. 459, Session of 1937, as amended by Act No. 380, Session of 1939, and Act No. 4, Session of 1943, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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LETTER OF TRANSMITTAL

To the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the provisions of Act No. 459, Session of 1937, as amended by Act No. 380, Session of 1939, Section 2(b), we submit herewith a report dealing with the codification of the school laws.

In accordance with Act No. 4, Session of 1943, Section 1, the Commission created a "subcommittee" to expedite the task of codification.

On behalf of the Commission the cooperation of the members of the subcommittee is gratefully acknowledged.

WELDON B. HEYBURN, Chairman

Joint State Government Commission Capitol Building Harrisburg, Pennsylvania January 1949

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Section I

THE LEGISLATIVE HISTORY OF THE PROPOSED CODIFICATION OF THE SCHOOL LAWS

The basic school law is the Act of May 18, 1911 (P. L. 309), commonly referred to as the School Code.

In 1931 the General Assembly appropriated the sum of \$5,000 to the Department of Justice for the preparation of a revision of the school laws and for its presentation to the General Assembly at the Session of 1933. As directed, the revision was prepared and published in printed form, with source notes and explanations, in a bulletin consisting of 297 pages. The proposed codification was introduced in both the House and the Senate at the Session of 1933. The two bills were referred to the Education Committees on February 6. From these committees neither bill emerged.

In the letter of transmittal of the draft referred to, Attorney General William A. Schnader made the following statement: "The School Code was enacted in 1911. Hundreds of amendments have been made since then, but there has been no general revision.

"A complete revision of the school law as it now stands, together with such changes as present economic conditions dictate, will be most helpful in the administration of the public school system."

In 1947, the School Commission submitted a proposed codification of the school laws to the General Assembly. The

proposed codification was incorporated in Senate Bill 191, introduced by the late Senator Clarence D. Becker on February 24, 1947.

Unlike the proposed codification of 1933, which admittedly contained "such changes as present economic conditions dictate," Senate Bill 191, Session of 1947, was "a faithful reproduction of existing school law."

Shortly after the introduction of Senate Bill 191, it became apparent that numerous consequential amendments to the then-existing school law were under serious consideration by the members of the General Assembly. Under the circumstances, it was felt that legislative action upon the proposed code might lead to confusion and possibly jeopardize the amendments.

The proposed codification of the school laws presented by the Joint State Government Commission to the Session of 1949 is based upon Senate Bill 191, Session of 1947. The Commission has inserted the 1947 amendments to the school laws in the appropriate places, and the entire draft has been reviewed with the Legislative Reference Bureau, the Department of Justice, and the Department of Public Instruction.

Section II

THE NEED FOR THE CODIFICATION OF THE SCHOOL LAWS

Every session of the General Assembly has seen fit to amend the School Code of 1911. The Session of 1947 alone passed, and the Governor approved, amendments affecting the substance of seventy-one sections of the Code. Many of these amendments have been added to the Code without much regard for proper arrangement or division into sections and subsections. Instead of adding new sections, the prevalent practice has been to add a proviso at the end of an existing section which has little or no bearing on the matter to be added. The result, in a great number of cases, is that the School Code has sections, each several pages long, which are not even divided into grammatical paragraphs.

There also remain in the Code of 1911 provisions that have become obsolete or that have been transposed into the Administrative Code.

A number of Supreme Court decisions have construed language in the School Code so as to give certain provisions meanings not altogether obvious from the present language. In other cases there appear inconsistencies and ambiguities in language, that have not been passed on by the court, but which need clarification.

In preparing the proposed Code of 1949, care has been taken to make no change of language that might result in a change of meaning or in the application of any provision of the school laws. Most of the language remains unchanged. Wherever a provision has been restated, an effort has been made to clarify it through the use of simple language and short sentences.

All lengthy and involved sections have been broken up into several separately numbered sections. There has also been some rearrangement of provisions in order to bring about a more logical arrangement of the material. Each section has been given a section heading which gives, in brief language, some indication as to what is treated in the section. All the section headings are included in a Table of Contents at the beginning of the bill. It is hoped that the proposed Code, if favorably acted upon by the General Assembly, will be much easier to work with, not only for those already familiar with the school laws, but for those who have infrequent occasion to refer to them.

Section III

RECOMMENDATIONS RELATING TO DELETIONS AND CHANGES IN LANGUAGE

Analysis of the school law shows that certain sections now contained in the compilation of the Department of Public Instruction should be deleted from a new code because they are contained in other statutes.

Again, review of the present school law discloses that the language of some sections is not entirely clear. In view of these facts, the Joint State Government Commission recommends the following deletions and changes in language. It is believed that the changes in language will give explicit legislative sanction to current practice.

Recommended Deletions

1. Section 223 of the existing Code, which is titled "Election Set Aside on Contest, Filling Vacancies," should be deleted because the matters dealt with in this section are covered fully in the Election Code.¹

2. Sections (4108) to (4112), inclusive, of the existing Code should not be included in a new code, because the legislation in question was declared unconstitutional on the grounds that its title was defective and that it constituted

¹ Act of June 3, 1937, P. L. 1333, Art. XVII, Section 1772.

special or class legislation. The sections deal with the instruction of unnaturalized foreign-born residents in the duties, privileges, and rights of citizenship and in the principles of government of the United States of America and of this Commonwealth. In view of the great importance of universal knowledge of the principles of American government, the Commission recommends amendments designed to overcome the judicial objections to the sections referred to above.

Changes in Language

1. Sections 703 and 704 of the proposed Code, which are the equivalent of parts of Section 602 of the existing Code, call for a change in language.

The sections in question deal with the "Acquisition of Sites for School Buildings and Playgrounds and Disposing Thereof," and "Acquisition and Disposition of Property in Other Districts, Freedom from Taxation," respectively. The sections regulate the acquisition, disposition, and exemption from taxation of real property used for school buildings and playgrounds. The Commission recommends that the phrase "proper school purposes" be substituted for the phrase "school buildings and playgrounds," because under contemporary conditions properties owned by many school districts are not adequately described by either the designation "school building" or the designation "playground." For example, some playgrounds or parts of playgrounds in the larger districts are used for athletic fields, and some structures owned and operated by school districts are not "school buildings" in the traditional sense, but are powerhouses, warehouses, and similar units.

2. Section 731 of the proposed Code, which is the equivalent of Section 615 of the existing Code, deals with the "Submission of Plans, etc., of Buildings to State Council of Education, Exceptions." This section provides in substance that no public school buildings may be contracted for or constructed until the plans and specifications have been *submitted* to the State Council of Education, whereas in the case of structural changes, such as the moving of doors and windows, the *approval* of the State Council of Education is required.

It seems incongruous to require a school district to obtain the approval of the State Council of Education when it wishes to move a door or a window, and to require it merely to submit plans when it wishes to erect a structure. The Commission recommends that the law require mere submission of plans in both cases.

3. Section 1125 of the proposed Code, which is the equivalent of Section 1205 (b) of the existing Code, deals with "Suspensions and Reinstatements." The section in question provides in part: "In cases in which suspensions are to be made, professional employes shall be retained on the basis of seniority rights where no differences in rating are found."

As will be noted, this section does not specify whether the seniority rights in question are to be determined on the basis of service in the district contemplating suspension, or on the basis of service in the public schools of the Commonwealth. With a view of clarifying the law, the Commission recommends that after the word "rights" the phrase, "acquired within the school district of current employment," be inserted.

4. Section 1345 of the proposed Code, which is the equivalent of Section 1435 of the existing Code, deals with "Penalty for Interfering with Inspections," and provides in part: "Any officer, director, superintendent, manager, employe, or other person at any place where any child between fourteen (14) and sixteen (16) years of age is engaged" This section is based upon the assumption that the compulsory school age does not change. As a matter of fact, the compulsory school age has been changed by the General Assembly and may be changed again in the future. In order to facilitate compliance with the attendance laws at any one time, the Commission recommends that the phrase, "between fourteen (14) and sixteen (16) years of age," be deleted, and that the phrase, "of compulsory school age," be substituted in lieu thereof.

5. Section 1608 of the proposed Code, which is the equivalent of Section 1707 of the existing Code, prescribes "Requirements for Attendance in Other Districts," and reads in part: "Pupils desirous of having their tuition paid in the high school of another district on account of having completed such program of studies in their own district"

The wording of this section suggests that a pupil who has successfully completed a course of studies in the schools of his own district may be desirous of repeating such course in the schools of some other district. The Commission recommends that the law be clarified by the deletion of the word "such" and the substitution therefor of the word "the."

6. Section 2541 of the proposed Code, which is the equivalent of Section 1243 of the existing Code, governs "Payments on Account of Pupil Transportation."

The Commission recommends that the phrase, "to all school districts, for pupils transported to and from approved consolidated elementary schools or approved consolidated junior high schools or approved joint consolidated schools," be supplemented by the addition of the phrase, "or approved vocational district schools."

The Commission finds that vocational district schools are legally within the category of "consolidated schools." It recommends the insertion of the supplemental phrase referred to above with a view of clarifying the law in such manner as to remove whatever doubt may exist regarding the reimbursability of charges incurred in connection with the transportation of pupils attending such schools.

Section IV

REFERENCE TABLE SHOWING SECTIONS OF THE SCHOOL LAW OF 1945, AS COM-PILED BY THE DEPARTMENT OF PUBLIC INSTRUCTION DECEMBER, 1945, AND ACTS OF THE GENERAL ASSEMBLY OF 1947 RELATING TO THE PUBLIC SCHOOLS AND EQUIVALENT SECTIONS OF THE PROPOSED SCHOOL CODE

For the convenience of the members of the General Assembly who may wish to compare sections of the existing Code with the equivalent sections of the proposed Code, the reference table reproduced below has been prepared.

Columns 1 and 3, unless otherwise indicated, list the sections of the existing Code. Columns 2 and 4 list the equivalent sections of the proposed Code.

The reference table should be read as follows: Section 101 of the existing Code is contained in Sections 201, 202, and 2401 of the proposed Code.

Whenever a section of the existing Code is obsolete by virtue of judicial decisions or subsequent legislative enactment, the fact is indicated in Columns 2 and 4. For example, Column 1, Row 22, makes reference to Section 121 of the existing Code. The corresponding row in Column 2 indicates that the section in question is obsolete.

REFERENCE TABLE

Sections of the School Law of 1945, as Compiled by Lie Department of Pub- lic Instruction Decem- ber, 1945, and Acts of the General Assembly of 1947 Relating to the Public Schools.	Equivalent Sections of Pro- posed Code unless other- wise noted,	Sections of the School Law of 1945, as Compiled by the Department of Pub- lic Instruction Decem- ber, 1945, and Acts of the General Assembly of 1947 Relating to the Public Schools.	Equivalent Sections of Pro- posed Code unless other- wise noted.
101	201, 202, 2401	128 (a)	230
102	202	129	253
103	202	130	254
104	202	131	312
105	202	132	2401 (7)
106	204	132-A	261
107	205	133	261
108	201	134	263
108-A	Validation pro-	135	313
	vision		
109	226	136	264
110	- 271	1	
111	272	201	301
112	273, 276	202	302
113	274	203	303
114	275	204	304
115	277	205	305, 306
116	227, 228	206	311
117	241, 242	207	322
118	243	208	323
119	211 101 1701	209 210	Obsolete
120 121	104, 1704 Obsolete	210	203, 307
121	215	212	308
122	213	212	309, 310 314
125	215	215	315
124	214	215	316
125	216, 217	210	317
120	251	217	318
127 (a)	229	218	318
128	252	219	318
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222	320	327	441
223	Supplied	328	442
224	321	329	438
225	326	330	436
226	324	331	437
	52-4	332	443
301	401	333	405
302	402	555	-10)
303	402, 404	401	501, 502, 503, 504,
909	409, 404	101	518
304	Obsolete	401-A	520
	406	401-71	507
305		402	
306	407		508
307	421	404	510
308	422	405	511
309	423	406	514
310	423	407	514
311	426	408	509
312	427	410	516
313	428	411	517
314	433 (1)	501	602
315	433 (2)		
316	433 (3)	502	603
317	433 (4)	503	Supplied 1945
			P. L. 1050, Sec.
			21 (b)
318	433 (5)	503-A	Not to be repealed
319	408, 433 (6)	503-B	Not to be repealed
320	433 (7)	504	606
321	431	505	Obsolete
322	433 (8)	506	631
323	432	506-A	Temporary
525 324	403, 439	506-B	
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324-A	Not to be repealed	507	632, 633

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513	609	544	Repealed
514	611	545	Repealed
	231	546	681
515			683
516	610	547	
517	608	548	Repealed
518	Supplied 1941,	549	682
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	207 & 401		
519	Obsolete	(a) (b) & (c)	Repealed
520	Repealed	(d)	684
521	Obsolete	551	Repealed
522	Obsolete	552	Repealed
523	651	552-A	Repealed
524	652	553	Repealed
524.1	663	554	Repealed
525	655	555	Repealed
526	655, 656	556	Repealed
527	657	557	Repealed
528	658, 659	558	Repealed
529	660	559	Repealed
530	661	559-A	Not to be repealed
531	662	560	685
532	664, 665	561	Repealed
533	607	652	686
534	664	563	687
535	666	564	607
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536	671		

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565	678	622	738
566	Repealed	623	739
567	232	624	739
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602	703, 704	627	775
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602.1	707	629	771
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603	708	632	776 740
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605	721	634	774
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607	722		
608	721	701	801
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		1209.1	Repeated
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1145	1007		
1146	1004	1	
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1153	Obsolete	1	
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